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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,806	09/17/2001	Amir Loshakove	088/02376	9502

7590 11/30/2004

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EXAMINER

O CONNOR, CARY E

ART UNIT	PAPER NUMBER
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3732

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 09/936,806	Applicant(s) LOSHAKOVE ET AL	
	Examiner Cary E. O'Connor	Art Unit 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-19, 21, 22, 74-94 and 96-167 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-19, 21, 22, 78-90, 93, 94, 96, 129-146, 152-160 and 163-167 is/are allowed.
- 6) ☒ Claim(s) See Continuation Sheet is/are rejected.
- 7) ☒ Claim(s) 4, 6-10, 75, 77, 99-103, 105, 109, 112, 116, 120, 122, 128 and 149 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/10/04</u> | 6) <input type="checkbox"/> Other: _____ |

Continuation of Disposition of Claims: Claims rejected are 1-3, 11-13, 74, 76, 91, 92, 97, 98, 104, 106-108, 110, 113-115, 117-119, 121, 123-127, 147, 148, 150, 151, 161 and 162.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 11-13, 74 and 76 are rejected under 35 U.S.C. 102(a) as being anticipated by Gifford, III et al. Gifford shows, in Figs 17A-D, an anastomotic connector comprising a radially thin collar section 210, and a separate spike section 209 comprising a plurality of spikes 218, wherein each of the spikes are adapted to first transfix a graft and then penetrate a target vessel 150. As to claims 2 and 3, note the locking elements 216 formed on the collar section for interlocking the spike section and the collar section. As to claim 11, note that the collar section is cylindrical. As to claim 12, note that Figures 6a-6c show the collar section adapted to form a perpendicular

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anastomosis. As to claim 13, the collar section could inherently be "adapted to" form an oblique anastomosis.

Claims 97, 98, 104, 106-108, 110, 111, 113-115, 117-119, 121, 123-127, 147, 148, 150, 151, 161, 162 are rejected under 35 U.S.C. 102(b) as being anticipated by Miller et al (5,250,058). Miller shows an anastomotic connector for connecting a graft to a target vessel comprising a plurality of spikes 24 adapted to transfix a graft and penetrate a blood vessel, a plurality of aperture elements 34 adapted to receive the spike elements, and at least one lock element (the thickened portion of the spikes). As to claims 98 and 111, note that at least one lock element comprises a lock element corresponding to each element (column 4, lines 11-12). As to claim 121, each lock element may correspond to an aperture element in a 1:1 correspondence (column 4, lines 11-12).

Claims 91 and 92 are rejected under 35 U.S.C. 102(e) as being anticipated by Grudem et al (6,511,491). Grudem shows a kit for a bypass procedure comprising at least one graft 104 having anastomosis connectors 12, 10 embedded in the two ends of the graft, and at least one guide wire 160 attached to one end of the graft.

Allowable Subject Matter

Claims 4, 6-10, 75, 77, 99-103, 105, 109, 112, 116, 120, 122, 128 and 149 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 14-19, 21, 22, 78-90, 93, 94, 96, 129-146, 152-160, 163-167 are allowed.

Information Disclosure Statement

The information disclosure statement filed August 10, 2004 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein (that has been crossed out) has not been considered. Numerous Foreign Patent Documents and NonPatent Literature could not be located in the file or other files referred to by applicant in the IDSs. Applicant is requested to resubmit the documents that have been crossed out by the Examiner on the 1449 forms.

Response to Arguments

Applicant's arguments with respect to claims 1, 94, 121 have been considered but are moot in view of the new ground(s) of rejection.


Applicant's arguments filed August 10, 2004 have been fully considered but they are not persuasive. Applicant argues, with respect to the rejection of claims 91, that the claim requires a "kit" for a bypass procedure and that Grudem does not mention a kit. It is held that the term "kit" alone does not any structural limitation to the claims. The parts are intended to, at some point, be located together and can then be considered a "kit".

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cary E. O'Connor whose telephone number is 571-272-4715. The examiner can normally be reached on M-Th 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Cary E. O'Connor
Primary Examiner
Art Unit 3732

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